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and Omaha Steaks International, Inc.

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

AT PORTLAND

**MICHAEL HETHERINGTON,**  
Individually and on Behalf of the Class,

**PLAINTIFFS,**

v.

**OMAHA STEAKS, INC. and OMAHA  
STEAKS INTERNATIONAL, INC.,**

**DEFENDANTS.**

Case No. 3:13-cv-2152

**REPORT VERIFYING COMPLIANCE  
WITH SETTLEMENT AGREEMENT**

REPORT VERIFYING COMPLIANCE WITH SETTLEMENT AGREEMENT

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Pursuant to Paragraph 3.07 of the Settlement Agreement (Dkt.113-1), Defendants Omaha Steaks, Inc. and Omaha Steaks International, Inc. (collectively “Omaha Steaks”) respectfully submit this Report Verifying Compliance with the Settlement Agreement. Specifically, Omaha Steaks reports that it has paid the required monetary and non-monetary consideration into the Settlement Fund, and caused the payment of required Reward Cards and cash, as well as Court-awarded fees, costs, and Service Award, at the times and in the amounts set forth below. In support of this Report, Omaha Steaks contemporaneously submits the Declaration of Eric Robin (“Robin Decl.”).

Omaha Steaks contributed a total of \$4,651,168.93 to the Settlement Fund as follows: Omaha Steaks made the following cash payments to the Settlement Fund: \$500,000 on March 17, 2016, and \$1,423,426.70 on October 4, 2016. Omaha Steaks also contributed a total of \$2,727,742.23 in Reward Cards to the Settlement Fund on the dates and in the amounts discussed further below. *Id.* ¶ 2.

On or around March 21, 2016, Omaha Steaks provided the settlement administrator, Kurtzman Carson Consultants LLC (“KCC”) with 325,321 \$7 Reward Cards totaling \$2,277,247.00. On or about April 4, 2016, KCC distributed with direct class notice to 325,321 Core Subclass Members the \$7 Reward Cards along totaling \$2,277,247.00 in Reward Card distribution. *Id.* ¶ 3.

On or around October 10, 2016, KCC paid to Class Counsel from the Settlement Fund a total of \$1,423,436.70 for the \$1,312,500.00 in fees, \$100,926.70 in costs, and \$10,000 Service Award the Court allowed in its Class Action Settlement Order and Final Judgment [Dkt. 130]. *Id.* ¶ 4.

A total of 16,816 Settlement Class Members made valid claims, broken down as follows: (1) 16,816 Core Subclass Members, 1,611 of which elected to receive cash and 1,189 of which

elected to receive a Reward Card;<sup>1</sup> and (2) 14,016 Pre-Core Subclass Members, who were entitled to receive a Reward Card. *Id.* ¶ 5.

Based on capped settlement administration costs totaling \$282,463.25, the aggregate fees, costs, and Service Award, and initial Reward Card distribution, eligible Settlement Class Member claimants were entitled under ¶1.01 of the Settlement Agreement to a pro rata increase of their settlement distribution as follows: (1) eligible Core Subclass Member claimants who elected cash saw their entitlement to \$30 cash increase to \$41.22; (2) eligible Core Subclass Member claimants who elected a Reward Card saw their entitlement to a \$40 Reward Card increase to \$54.95; and (3) eligible Pre-Core Subclass Member claimants saw their entitlement to a \$20 Reward Card increase to \$27.48. *Id.* ¶ 6.

On or about November 28, 2016, Omaha Steaks provided to KCC for distribution to eligible Settlement Class Member Claimants 1,189 \$54.95 Reward Cards and 14,016 \$27.48 Reward Cards totaling \$450,495.23. On or about December 12, 2016, KCC distributed these Reward Cards to the appropriate eligible Settlement Class Member claimants. *Id.* ¶ 7.

On or about December 12, 2016, KCC issued from the Settlement Fund settlement checks in the amount of \$41.22 to each of the 1,611 eligible Core Subclass Member claimants in the total amount of \$66,405.42. *Id.* ¶ 8.

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<sup>1</sup> Under the Settlement Agreement, Settlement Class Members who satisfied the conditions for both Core and Pre-Core Subclasses were treated as Core Subclass Members, entitled to receive the higher settlement benefit afforded Core Subclass Members. *See* Settlement Agreement ¶ 1.01(c). The Core Subclass Member count above and throughout this Report, therefore, includes both the Core Subclass Members and the Dual Core and Pre-Core Subclass Members.

Omaha Steaks deposited \$151,131.33 more cash into the Settlement Fund than needed to fulfill the cash component of the settlement. On or about December 28, 2016, KCC issued a \$151,131.33 refund to Omaha Steaks from the Settlement Fund. *Id.* ¶ 9.

Respectfully submitted this 13th day of March, 2017.

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By s/ Kenneth E. Payson

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**CERTIFICATE OF SERVICE**

I hereby certify that, a copy of the foregoing was filed with the Clerk of the Court today using the CM/ECF system which will send notification of such filing to all counsel of record.

SIGNED this 13th day of March, 2017.

*s/ Kenneth E. Payson*

Kenneth E. Payson